UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,156	05/14/2001	Lee Goodman	74120-301394	1127

35657 7590 09/22/2004

FAEGRE & BENSON LLP
PATENT DOCKETING
2200 WELLS FARGO CENTER
90 SOUTH 7TH STREET
MINNEAPOLIS, MN 55402-3901

EXAMINER	
KADING, JOSHUA A	

ART UNIT	PAPER NUMBER
2661	

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/855,156	GOODMAN, LEE	
	Examiner	Art Unit	
	Joshua Kading	2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-13 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-13 is/are rejected.

7)☒ Claim(s) 11 is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 14 May 2001 is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 3-5-02.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claim 11 is objected to because of the following informalities: Line 2 states "devices include a VOIP gateway." As seen in figure 1, this is not true. The communication device is coupled to the VOIP gateway. Therefore, it is suggested that line 2 be changed to --devices are coupled to a VOIP gateway.-- Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 states "the communications device is a VOIP gateway." However, applicant's specification contradicts this on page 7, lines 1-15, as do some of the functions of claim 1. For instance, nowhere in the specification does a gateway "answer a test call by playing a voice file". Therefore, it is not clear what applicant means by claim 2. Is claim 2 supposed to be similar to claim 11 in that the VOIP gateway is coupled to the communication device? Or does applicant really intend the gateway to perform some of the functions of claim 1? And if so, where is this supported in the specification?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 6-10, and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Maurer et al. (U.S. Patent 6,700,953 B1).

Regarding claim 1, Maurer discloses "a method of testing voice call quality in a Voice Over Internet Protocol (VOIP) network (col. 2, lines 46-48) comprising:

enabling a communications device connected to the VOIP network to answer a test call received over the VOIP network by playing a voice file (col. 6, lines 32-39 and 55-59 where the interface associated with the mobile as seen in figure 2, element 210 acts in response to a call (the audio sent from the user), i.e. they answer the call as read in col. 4, lines 29-37);

generating a test call over the VOIP network to the communications device (col. 6, lines 32-39 where the user sends (generates a test call) audio to the mobile); and

measuring voice call listening quality from the voice file played by the communications device (col. 6, lines 59-61 where the voice quality score is what has been measured and deemed a call listening quality in response to the audio)."

Regarding claim 6, Maurer discloses "the method of claim 1, wherein enabling comprises: configuring the communications device to use an interactive response unit within the communications device to answer the test call (col. 4, lines 29-37 where the interface automatically answers in response to a call)."

Regarding claim 7, Maurer discloses "the method of claim 1, wherein generating comprises: controlling a test probe to place the test call to the communications device (col. 32-39 where a user directs a computer to place the call by sending the audio)."

Regarding claim 8, Maurer discloses "the method of claim 7, wherein measuring comprises: using the test probe that placed the test call to measure the voice call listening quality (col. 6, lines 59-61 where the voice quality score is what has been measured and deemed a call listening quality in response to the audio measured by the test probe)."

Regarding claim 9, Maurer discloses "the method of claim 8, wherein the test probe is connected to the VOIP network over an IP connection (col. 2, lines 46-48 and figure 2, element 190 allows for the medium to a VOIP network)."

Regarding claim 10, Maurer discloses "a method of testing voice call quality in a Voice Over Internet Protocol (VOIP) network (col. 2, lines 46-48) comprising:

enabling communications devices connected to the VOIP network to answer test calls received over the VOIP network by playing embedded voice files (col. 6, lines 32-39 and 55-59 where the interface associated with the mobile as seen in figure 2, elements 210 acts in response to a call (the audio sent from the user), i.e. they answer the call as read in col. 4, lines 29-37);

controlling a single test probe to generate test calls over the VOIP network to the communications devices (col. 6, lines 32-39 where the user sends (generates a test call) audio to the mobile); and

using the single test probe to measure the voice call listening quality from the embedded voice files played by the communications devices (col. 6, lines 59-61 where the voice quality score is what has been measured and deemed a call listening quality in response to the audio measured by the test probe)."

Claim 13 is rejected for the same reasons as claim 1 because it contains the same limitations as claim 1. Claim 1 does not disclose "a computer program product residing on a computer readable medium" to implement the instructions of claim 13 that mirror the steps of claim 1. However, Maurer does further disclose the "computer program product residing on a computer readable medium" to implement the instructions of claim 13 that mirror the steps of claim 1 (col. 5, lines 1-23).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maurer et al. in view of Sand (U.S. Patent 6,512,746 B1).

Regarding claims 2 and 11, Maurer discloses the method of claim 1 and the method of claim 10. However, Maurer lacks what Sand discloses, "the communications device [is coupled to a] VOIP gateway (figure 2, element 30)." It would have been obvious to one with ordinary skill in the art at the time of invention to include the VOIP gateway for the purpose of providing a means to connect the circuit switched network with the IP network. The motivation for connecting the two networks is to allow users from different networks to connect a call using VOIP and experience its benefits (Sand, col. 4, lines 54-57).

Regarding claim 12, Maurer and Sand disclose the method of claim 11. However, Maurer lacks what Sand further discloses, "the communications devices further include a VOIP telephone (figure 3, elements 38)." It would have been obvious to one with ordinary skill in the art to include the VOIP telephone for the same reasons and motivation as in claim 11.

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maurer et al. in view applicant's admitted prior art (AAPA).

Regarding claim 3, Maurer discloses the method of claim 1. However, Maurer lacks what AAPA discloses, "measuring the voice call listening quality using a perceptual test model (Specification, page 2, lines 21-29)." It would have been obvious to one with ordinary skill in the art at the time of invention to include the "perceptual test model" for the purpose of calculating a numerical representation of voice quality. The motivation for calculating the numerical representation of voice quality is to allow a description to formed about how a human listener would respond to the quality of the line, for example a given value will indicate that the quality is poor and thus there is a problem.

Regarding claim 4, Maurer and AAPA disclose the method of claim 3. However, Maurer lacks what AAPA further discloses, "the perceptual test model comprises Perceptual Analysis Measurement System (Specification, page 2, lines 25-26)." It would have been obvious to one with ordinary skill in the art to have the perceptual test be PAMS for the same reasons and motivation as in claim 3.

Regarding claim 5, Maurer and AAPA disclose the method of claim 3. However, Maurer lacks what AAPA further discloses, "the perceptual test model comprises

Perceptual Speech Quality Measurement (Specification, page 2, line 25). It would have been obvious to one with ordinary skill in the art to have the perceptual test be PSQM for the same reasons and motivation as in claim 3.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua Kading whose telephone number is (571) 272-3070. The examiner can normally be reached on M-F: 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Vanderpuye can be reached on (571) 272-3078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Joshua Kading
Examiner
Art Unit 2661

September 17, 2004

KENNETH VANDERPUYE
PRIMARY EXAMINER